



March 10, 2008

Filed electronically and via email blakley.pamela@epa.gov

Ms. Pamela Blakley
Chief, Air Permits Section
Air Programs Branch (AR-18)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, IL 60604

Attn: Docket I.D. EPA-R05-OAR-2007-1043

Dear Ms. Blakley:

The Alliance of Automobile Manufacturers submits the following comments in support of the proposed rule for conditional approval of revisions to Michigan's State Implementation plan (SIP). These revisions would add the Prevention of Significant Deterioration (PSD) construction permit program regulations to the SIP under the Clean Air Act. 73 *Fed. Reg.* 1570 (Jan. 9, 2008). The Alliance is a trade association of ten car and light truck manufacturers including BMW Group, Chrysler LLC, Ford Motor Company, General Motors, Mazda, Mercedes Benz USA, Mitsubishi Motors, Porsche, Toyota and Volkswagen.

The Alliance commented in favor of the proposed revisions during the state rulemaking. It is essential that these rules be approved into the SIP as quickly as possible so that Michigan, which is currently operating as a delegated state under the PSD program, be able to administer fully its construction permit program.

The PSD program changes that DEQ has adopted provide a rational system for determining when a project will actually cause an increase in emissions that triggers PSD permitting requirements. The adoption of the baseline emissions period of ten years is extremely important in cyclical industries like automobile manufacturing in that it prevents confiscation of capacity simply due to economic downturns. In addition, the ability to take into account the actual impacts of a project – and not to assume that emission units operate at maximum potential emissions – is also critical to ensure that PSD review is not triggered for projects that will not increase emissions above significance levels.

EPA notes that virtually all elements of the Michigan rule match the federal regulations and therefore are approvable. With respect to those few elements that differ, the Alliance offers the following comments.

- *Net emissions increase definition:* EPA notes that the definition in R 336.2801(ee) exceeds the requirements of 40 CFR 51.166(b)(3), and that in a letter the Michigan Department of Environmental Quality (DEQ) has indicated that it was not DEQ's intent to be more stringent than the federal rule, but rather to adopt the federal rule directly.

EPA states that the rule is approvable as currently promulgated and as proposed to match the federal definition. 73 *Fed. Reg.* 1,573. It is unclear from EPA's statement, however, whether Michigan will need to seek a subsequent SIP revision to use the federal definition. We request that EPA make clear that approval of the current submittal will not prevent Michigan from revising the definition in the future (e.g., under anti-backsliding policies that may be developed by the Agency). Moreover, it would be extremely helpful if EPA would ensure a streamlined process for including the new definition when it is adopted.

- *Potential to Emit (PTE) Definition:* EPA proposes to approve conditionally DEQ's definition of PTE in R 336.2801(hh). DEQ has deleted the requirement for federal enforceability and relies instead on legal enforceability – meaning that enforceability by EPA is not required to limit PTE. DEQ has always required practical enforceability as part of its PTE limits. Therefore the Alliance agrees that EPA can interpret DEQ's use of the term “legally enforceable” as encompassing practical enforceability as well. This is consistent with *Chemical Manufacturers Assn v. EPA*, No. 89– 1514 (D.C. Cir. Sept. 15, 1995).
- *Reasonable Possibility:* EPA proposes to approve R 336.2818 as more stringent than the federal rule because it does not include the reasonable possibility test. On December 21, 2007, EPA issued a final rule establishing a 50% of applicable significance level trigger for reasonable possibility recordkeeping. 72 *Fed. Reg.* 72,607 (Dec. 21, 2007). When MDEQ submits its rule changes to resolve those items for which it is receiving conditional approval, EPA should allow the Department to adopt the EPA-promulgated reasonable possibility approach. The reasonable possibility approach was not adopted in Michigan because of the remand by the Court in *New York v. EPA*, 413 F.3d 3 (D.C. Cir. 2005). EPA should permit Michigan to review its rules and adopt the new approach in its next submittal. And, to the extent additional rulemaking is needed, if DEQ adopts the federal reasonable possibility language, EPA should issue a direct final rule to approve this aspect of the regulations.

The Alliance also supports the DEQ decision and EPA clarification that R 336.1823(5) is not being approved into the SIP because it is an air toxics provision not appropriately included in a criteria pollutant SIP.

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Thank you for your consideration of these comments. Please contact me at 202-326-5511 with any questions.

Sincerely,

A handwritten signature in cursive script that reads "Julie C. Becker". The signature is fluid and elegant, with a large initial 'J' and a clear 'C' and 'B'.

Julie C. Becker
Vice President, Environmental Affairs